

Court of Appeals, State of Michigan

ORDER

People of MI v Shane David Fountain

Docket No. 352699

LC No. 2019-0001604-FH

Jane E. Markey
Presiding Judge

Douglas B. Shapiro

James Robert Redford
Judges

This Court DENIED defendant's delayed application for leave to appeal by order dated April 2, 2020; Shapiro, J. dissented. On application for leave to appeal in our Supreme Court, an issue was raised regarding the constitutionality of the imposition of costs at sentencing. The Supreme Court, in Docket No. 161373 by order dated November 4, 2020, REMANDED the case to this Court, directing us to hold the case IN ABEYANCE pending a decision by this Court in *People v Lewis* (Court of Appeals Docket No. 350287). The Supreme Court also ordered this Court to reconsider the case in light of *Lewis*. Leave to appeal was DENIED in all other respects. By order dated December 8, 2020, this Court, as directed, held the case IN ABEYANCE pending the decision in *Lewis*. On May 13, 2021, an opinion was issued in *Lewis* rejecting the defendant's constitutional challenge to the imposition of costs. In light of *Lewis*, we again DENY defendant's delayed application for leave to appeal.


Presiding Judge

Shapiro, J., because I believe that *People v Lewis* (Docket No. 350287) was wrongly decided, I would grant leave to consider whether we should convene a conflict panel to consider the constitutionality of MCL 769.1k(1)(b)(iii). My reasons for concluding that the statute is unconstitutional were set forth in my dissenting opinion in *People v Johnson*, ___ Mich App ___; ___ NW2d ___ (2021) (Docket No. 351308).



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

May 21, 2021

Date


Chief Clerk